

rents paid by the sub-tenants. I think that is crystal clear from the wording of the section itself. It says "where the tenant, having sub-let the premises or part thereof, receives, in respect of such sub-letting, rents" then follow the words which as if to emphasize that they qualify the word 'rent' are contained in brackets "(exclusive of any payment by the tenant for ..... services)". The words "in respect of such sub-letting" if they have any meaning at all clearly govern everything that follows them, that is to say, the word rent as qualified by the words in brackets."

The appeal is dismissed with costs.

*Appeal dismissed.*

Solicitors: *Conaghan, Wreford & Thornton; S. Seenivasagam & Sons.*

## PUBLIC PROSECUTOR v. CHANG WAN SENG.

[A. Cr. J. (Wilson J.) August 23, 1954]

[K. L. — Criminal Appeal No. 59 of 1954]

*Penal Code, s. 304A — Negligence — Particulars of negligence — Accused not entitled to such particulars.*

A request for particulars of negligence under s. 304A of the Penal Code is tantamount to a request for particulars of the evidence which the prosecution proposed to call and therefore an accused is not entitled to such particulars. When a person is charged with murder it is not necessary to specify in the charge the poison or weapon used. Where an accused is involved in a collision he must be in a position to instruct his Counsel as to his version of how the collision took place and that is all that Counsel needs in order to conduct the defence.

## CRIMINAL APPEAL.

*E. Brown* (Federal Counsel) for the appellant.

*Ernest Jeff* for the respondent.

*Cur. Adv. Vult.*

**Wilson J. :** — In this case the accused was charged with the following offence:—

"That you on 5.3.54 at about 5.20 p.m. at Birch Road/Shaw Road, Kuala Lumpur, caused the death of one, Yap Yong How, by doing a negligent act not amounting to culpable homicide, to wit by driving motor lorry N.3094 negligently and thereby collided head-on into motor car BB.7811, and that you have thereby committed an offence punishable under s. 304A Cap. 45 of the Penal Code."

When the case was called, Counsel for the accused complained that, although he had asked for particulars of negligence these had not been supplied. The Court thereupon ordered particulars of negligence to be served upon the accused or his Counsel within two weeks. In his grounds for order, the learned President states that as the accused was charged with doing a negligent act resulting in death, the act or acts complained of should be disclosed in the charge.

In my opinion, a request for particulars of negligence was tantamount to a request for particulars of the evidence which the prosecution proposed to call, and I do not think that the accused was entitled to

such particulars. In my opinion, the charge contained such particulars as are required by section 153 of the Criminal Procedure Code and I do not think section 154 of the Criminal Procedure Code has any application in this case. When a person is charged with murder it is not usual, and certainly not necessary, to specify in the charge the poison or weapon used. I cannot say that the accused was in any way prejudiced by a failure to supply him with the particulars of the evidence on which the prosecution relied. If he was not involved in the collision as alleged, then his defence is simple. If he was involved in the collision he must be in a position to instruct his Counsel as to his version of how the collision took place and that is all that Counsel needs in order to conduct the defence.

The appeal is allowed and the case remitted to the President of the Sessions Court for trial.

*Appeal allowed.*

## HOOI MOON v. AR. K. SUPPIAH CHETTIAR.

[A. C. J. (Spenser Wilkinson J.) June 9, 1954]

[Penang — Civil Appeal No. 1 of 1954]

*Landlord and tenant — Control of Rent Ordinance, 1948, s. 13(1)(j) — Claim for possession — Tenant receiving excessive rent — Relevant time of tenant so receiving.*

The landlord in this case claimed possession on the ground that the tenant "receives" rent in excess of 75% of the rent paid by him. Before ejectment proceedings were started but subsequent to a notice to quit the tenant had reduced the rent to within the legal maximum. It was argued that the words "receives . . . rent" in s. 13(1)(j) related to the time when ejectment proceedings were started.

Held: if at the date when the contractual tenancy terminated the tenant is receiving rent in excess 75% of the main rent, the conditions of s. 13(1)(j) are fulfilled and the landlord is entitled to possession.

*Cases referred to:—*

(1) *K. S. Mohamed Ismail v. Choo Pin*, ante p. 183.

(2) *Woon Guat Chin v. Lim Sian Poon*, ante p. 184.

CIVIL APPEAL from Sessions Court.

*Ong Huck Lim* for the appellant.

*G. H. Conaghan* for the respondent.

*Cur. Adv. Vult.*

**Spenser Wilkinson J. :** — This was an appeal against the decision of the President of the Sessions Court giving possession of certain premises occupied by the defendant to the plaintiff.

The ground upon which the order for possession was made was that the defendant had received from his sub-tenant rent in excess of seventy-five per cent. of